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FORM**

(to be used for all correspondence after initial filing)

**Total Number of Pages in This Submission**

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Application Number	10/314,314
Filing Date	12/11/2001
First Named Inventor	Loewenstein
Art Unit	3713
Examiner Name	Rada/ Thai (SPE)
Attorney Docket Number	Diamond Poker

MAR 01 2006

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	<input type="checkbox"/> Other Enclosure(s) (please identify below):
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<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Letter to SPE Thal	

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• Typed or printed name

David A. Newenstein

Date

1/16/2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Loewenstein  
Serial No. : 10/015,314  
Filed : 12/11/01  
Title : POKER GAME  
Examiner : Rada  
Art Unit : 3713

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LETTER TO SUPERVISORY EXAMINER XUAN M. THAI

As we discussed on the telephone, I am resending, now for the third time, a copy of my Appeal Brief together with proof that it was originally filed on September 6, 2005.

In addition I am resending a copy of the fax I sent on November 17 which included the proof that the brief had been filed on September 6 together with a copy of the Appeal Brief. I am attaching the confirmation copies of the fax proving the fax was received. For some reason the last page of the fax did not go through on November 16, so I sent it separately. The confirmation page for that one page is also attached. Apparently this fax was lost by the PTO

Attached to this letter are the following:

- (1) a copy of the postcard that bears a received stamped by the OIPE on September 6, 2005 (there is a typographical error on the date mailed);
- (2) a two page printout of the United States Postal Service web site that indicates that air bill number ER84 5145 435US was accepted in New York on

Serial No. 10/015,314  
Art Unit: 3714

1

Examiner: Rada/SPE Thai  
VIA FAX 571-273-8300

September 6, 2005 at 5:59 PM and received at the Patent Office at 8:37 AM September 7, 2005. It was signed for by S DYAR. The air bill number corresponds to the Express Mail number in the footer of the Appeal Brief, a copy of which is attached; and

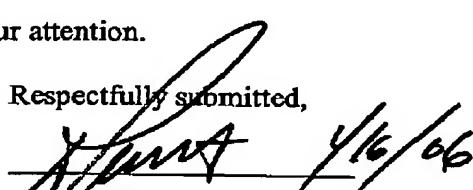
(3) A print out from Citbank's web site of canceled check number 581 for \$250 that has in the "memo" field "Appeal 314 Appln" this corresponds to the pending application number 10/015,314. The check was cashed by the Patent Office on September 8, 2005. The amount corresponds to the fee for submitting an appeal brief. I have crossed out my checking account number for security reasons.

There can be no question whatsoever that the three appeal briefs, the check and the postcard were mailed via Express Mail on September 6, 2005 and were received the following day on September 7, 2005 at the Patent Office. Because they were mailed via Express Mail the filing date is the date mailed (i.e., September 6<sup>th</sup>). See 37 CFR § 1.10 (a)(1).

I would appreciate a call letting me know that this has been done. My work number is 212-632-3572.

Thank you in advance for your attention.

Respectfully submitted,

  
David A. Loewenstein  
Reg. No. 35, 591

802 King Street  
Rye Brook, NY 10573  
(914) 937-4119

Serial No. 10/015,314  
Art Unit: 3714

2

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3/1/2006 12:30 PM PAGE 5/054 Fax Server

Loewenstein

914-937-3338

P. 4

PTO/SB/21 (09-04)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Total Number of Pages in This Submission

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Filing Date	12/11/2001
First Named Inventor	Loewenstein
Art Unit	3713
Examiner Name	Rada/ Thai (SPE)
Attorney Docket Number	Diamond Poker

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**ENCLOSURES (Check all that apply)**

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- Certified Copy of Priority Document(s)
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- Drawing(s)
- Licensing-related Papers
- Petition
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**Remarks**

Letter to SPE Thai

- After Allowance Communication to TC
- Appeal Communication to Board of Appeals and Interferences
- Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- Proprietary Information
- Status Letter
- Other Enclosure(s) (please identify below):

47 PAGES

Resending  
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**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	David A. Loewenstein		
Signature	<i>DA Loewenstein</i>		
Printed name	David A. Loewenstein		
Date	1/17/05	Reg. No.	35,591

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Typed or printed name David A. Loewenstein Date 1/17/05

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Loewenstein  
Serial No. : 10/015,314  
Filed : 12/11/01  
Title : POKER GAME  
Examiner : Rada  
Art Unit : 3713

---

LETTER TO SUPERVISORY EXAMINER XUAN M. THAI

As we discussed on the telephone today, Applicant (I) sent to the Patent Office on September 6, 2005 via Express Mail: (1) three copies of an Appeal Brief; (2) a check for \$250 for the associated fee; (3) a self addressed post card and (4) a transmittal form.

Attached to this letter are the following:

(1) a copy of the postcard that bears a received stamped by the OIPE on September 6, 2005 (there is a typographical error on the date mailed);

(2) a two page printout of the United States Postal Service web site that indicates that air bill number ER84 5145 435US was accepted in New York on September 6, 2005 at 5:59 PM and received at the Patent Office at 8:37 AM September 7, 2005. It was signed for by S DYAR. I cannot account for the discrepancy between the PTO's September 6 date stamp on the postcard and the Post Office's received date of September 7, but my assumption is because the package was received at 8:37 AM the

Serial No. 10/015,314  
Art Unit: 3714

1

Examiner: Rada/SPE Thai  
VIA FAX 571-273-8300

person who stamped it forgot to advance the date. The air bill number corresponds to the Express Mail number in the footer of the Appeal Brief, a copy of which is attached; and

(3) A print out from Citibank's web site of canceled check number 581 for \$250 that has in the "memo" field "Appeal 314 Appln" this corresponds to the pending application number 10/015,314. The check was cashed by the Patent Office on September 8, 2005. The amount corresponds to the fee for submitting an appeal brief.

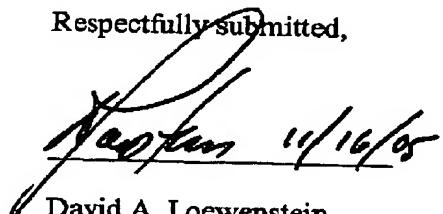
There can be no question whatsoever that the three appeal briefs, the check and the postcard were mailed via Express Mail on September 6, 2005 and were received the following day on September 7, 2005 at the Patent Office. Because they were mailed via Express Mail the filing date is the date mailed (i.e., September 6<sup>th</sup>). See 37 CFR § 1.10 (a)(1).

I am attaching a copy of the brief that was filed on that date. Please enter it into the system.

I would appreciate a call letting me know that this has been done. My work number is 212-632-3572.

Thank you in advance for your attention.

Respectfully submitted,



*Loewenstein 1/16/05*

David A. Loewenstein  
Reg. No. 35, 591  
802 King Street  
Rye Brook, NY 10573  
(914) 937-4119

Serial No. 10/015,314  
Art Unit: 3714

2

Examiner: Rada/SPE Thai  
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TO:Central Fax COMPANY: 914-937-3338  
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P. 7

Serial No.: 10/015,314  
Filing Date: 12/11/2001  
Inventor: Loewenstein  
Art. Class: 3714  
Date Mailed: 7/1/2005  
Title: Poker Game



To the individual receiving this correspondence, please check the contents enclosed and verify that the following items were enclosed by date stamping and placing this postcard in the out-going mail. Thank you.

- Three Copies of Appellant's Appeal Brief
- Transmittal Form
- Check for \$250

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- Acceptance, September 06, 2005, 5:59 pm, NEW YORK, NY 10150

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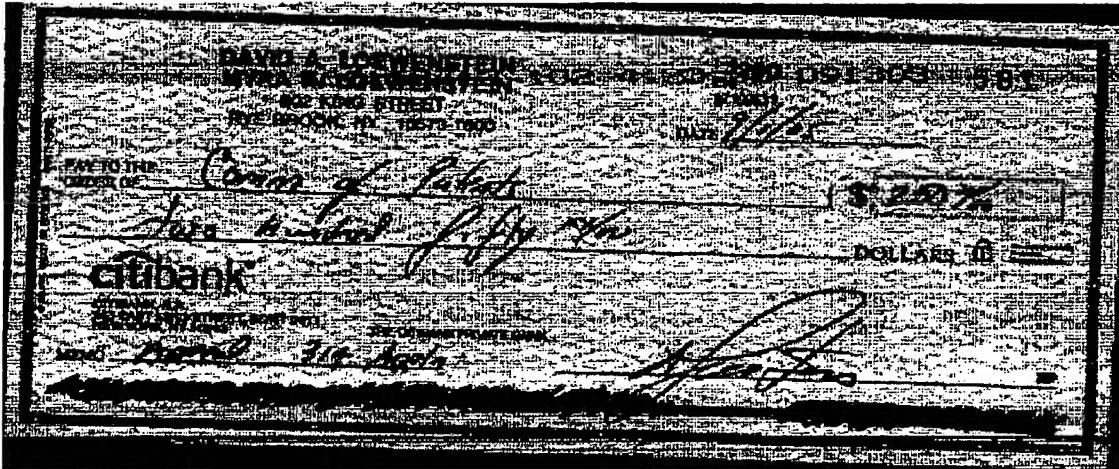
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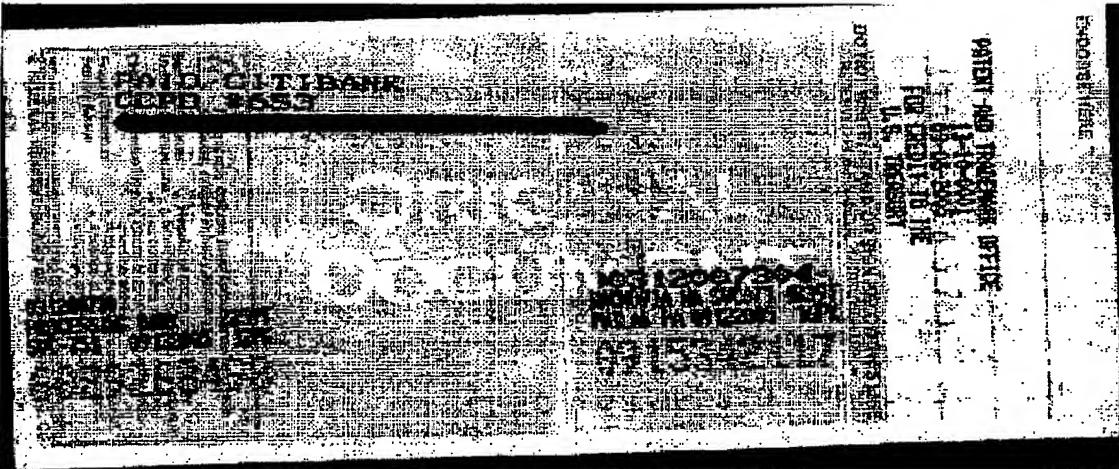
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PAGE 12/54 \* RCVD AT 3/1/2006 12:30:08 PM [Eastern Standard Time] \* SVR:USPTO-EFXRF-6/43 \* DNIS:2738300 \* CSID:USPTO \* DURATION (mm:ss):22-18-19-48

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<b>TRANSMITTAL FORM</b> <small>No fee is charged for correspondence after initial filing.</small>		<small>PTO-629 (08-04)</small> Application Number: 10774,374 Filing Date: 12/11/02 001 First Named Inventor: Loewenstein At Line: 9719 Examiner's Name: Patel (Tech 100) Attorney/Docket Number: Dated: 12/11/02 Total Number of Pages in This Submission: Dated: 12/11/02		
<b>ENCLOSURES</b> (check all that apply)				
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<b>SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT</b> Print Name: David A. Loewenstein Signature: <i>DA Loewenstein</i> Printed name: David A. Loewenstein Date: 1/17/05 Pop. No.: 88,891				
<b>CERTIFICATE OF TRANSMISSION/MAILING</b> <small>I hereby certify that this correspondence is being transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail and is being addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.</small> Signature: <i>DA Loewenstein</i> Typed or printed name: David A. Loewenstein Date: 1/17/05				
<small>This notice of transmittal is required by 37 CFR 1.8. The information is required in order to make a deposit to the public record in the USPTO in accordance with a patent application. Communication is governed by 35 U.S.C. 133 and 37 CFR 1.4 (and 1.4). This communication is submitted to the USPTO in confidence, and is subject to examination by the USPTO or its contractors, including photocopying, mailing, and electronic transmission. It may be used by the USPTO in connection with your application and may be disclosed to other USPTO employees in accordance with 35 U.S.C. 132 and 37 CFR 1.14. Any comments or the amount of time you require to respond to this form are solicited and are requested and for the avoidance of doubt, do not send FAX or COMPLETED FORMS TO THE TRADEMARK OFFICE, U.S. Copyrights and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FAX OR COMPLETED FORMS TO THE ACCREDITED TRADES ATTORNEY FOR PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450.</small>				

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Middle Name	<i>[Signature]</i>				
Printed Name	David A. Lowenstein				
Date	1/17/05 Reg. No. 35,591				
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<small>Signature <i>[Signature]</i></small>					
Type or printed name	David A. Lowenstein		Date	<i>[Signature]</i>	
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<small>If you need assistance in completing the form, call 1-800-PTO-4147 and select option 2.</small>					
<small>PAGE 1 OF 1 NOV-17-2005 13:48 PEARL COHEN ZEDEX 1 212 632 3489 DURATION (mm:ss):22-18-19-48</small>					

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Jan 16 2006 8:36PM Loewenstein 914-937-3338

P. 52

\*COMM. JOURNAL\*- COMM. JOURNAL - DATE NOV-17-2005 TIME 14:25 \*\*

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Application Number	10314,814
Filing Date	12/14/2001
First Named Inventor	Loewenstein
Art Unit	3713
Examiner Name	Rader/ Thiel (SPE)
Attorney Docket Number	Diamond Polar

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### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

First Name	David A. Loewenstein		
Signature	<i>DA Loewenstein</i>		
Printed name	David A. Loewenstein		
Date	1/17/05	Reg. No.	35,591

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P.53

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Application Number	10214,314
Filing Date	12/11/2001
First Named Inventor	Loewenstein
Art Unit	3713
Examiner Name	Rader Thal (SPE)
Total Number of Pages in This Submission	Attorney Docket Number Diamond Poker

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47 PAGES

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Firm Name	David A. Loewenstein
Signature	
Printed name	David A. Loewenstein
Date	11/17/05
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